

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
LYNN GOLDSMITH,

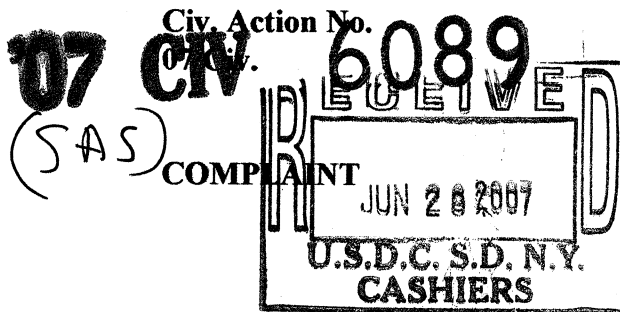
Plaintiff,

-against-

WOLFGANG'S VAULT,

Defendant.
-----X

JUDGE SCHEINDLIN



Plaintiff, by her attorneys, Joel L. Hecker, Esq. of Russo & Burke, as and for her complaint against defendant herein, alleges as follows:

JURISDICTION

1. This action arises under Title 17 of the United States Code, and jurisdiction is vested in this Court under 28 U.S.C. Sec. 1338. Proper venue exists under 28 U.S.C. Sec. 1400(a) in that defendant resides, does business and/or may be found in this district and certain of the transactions complained of occurred in this district.

THE PARTIES

2. Plaintiff was and at all relevant times herein had been a resident of the City, County and State of New York.

3. Upon information and belief, defendant is a California corporation with offices at 149 Bluxome Street, San Francisco, CA 94107, that sells poster art, clothing, concert tickets, and other music related merchandise worldwide, over the internet through its website www.wolfgangsvault.com.

**COUNT I
COPYRIGHT INFRINGEMENT**

4. Plaintiff is and at all relevant times herein has been engaged in the business of creating professional photography.

5. Prior to commencement of this action, plaintiff caused eleven photographs of individual group music performers to be created solely for promotional use by plaintiff's respective clients, with plaintiff retaining copyright and all other usage rights thereto (the "Copyrighted Photographs"). The Copyrighted Photographs were and are wholly original to plaintiff and is copyrightable subject matter under the copyright laws of the United States.

6. Plaintiff, by causing the creation of the Copyrighted Photographs, thereby secured the exclusive rights granted to the author of copyrightable work under the copyright laws of the United States.

7. Since the creation of the Copyright Photographs, publication of same by plaintiff or under her authority or license has been in strict conformity with the provisions of the copyright laws.

8. Since the creation of the Copyrighted Photographs, plaintiff has been the sole proprietor of all rights, title and interest in and the copyright of said Photographs.

9. Prior to the commencement of this action, plaintiff complied in all respects with the United States Copyright Act and all other laws governing copyrights by filing five of the Copyrighted Photographs with the United States Copyright Office, along with payment of the requisite fees, under Certificates of Registration Nos. VA 1-381-005 through 1-381-009.

10. Defendant, without the authorization, knowledge or consent of plaintiff, deliberately and wilfully used the Copyrighted Photographs on its website, www.wolfgangsvault.com,

in connection with the display and sale of posters. A copy of a printout of defendant's website pages displaying plaintiff's Copyrighted Photographs, is annexed hereto as Exhibit A.

11. These uses of the Copyrighted Photographs, without plaintiff's permission, authorization or consent, and in excess of those rights granted to plaintiff's original clients, were deliberate infringements of plaintiff's copyright in her work.

12. Defendant thus violated plaintiff's exclusive rights in the copyright to the Copyrighted Photograph, in violation of Sections 106(2) and (5) of the Copyright Act of 1976, 17 U.S.C. Sections 106(2) and (5).

WHEREFORE, plaintiff demands judgment against defendant as follows:

(A) that defendant, its agents, servants, employees, officers, attorneys and all those persons in active concert or participation with each and any of them be enjoined during the pendency of this action and permanently, from directly or indirectly infringing the Copyrights of plaintiff in any manner, and from publishing the infringing material.

(B) that defendant be required to deliver up to plaintiff to be impounded during the pendency of this action, all posters, advertisements, photographs, and all or other material infringing the Copyrighted Photographs, which are in its possession or under its control and to deliver up for destruction any such material used in the making or publishing of such infringing matter;

(C) for an accounting of the proceeds derived by defendant from the publication of the infringing material and upon such accounting, that defendant pay to plaintiff damages provided by statute for defendant's statutory copyright infringement, and all monies determined to be benefits generated or arising from such infringing material, and the damages which plaintiff has suffered as a result of such infringement; and

(D) that defendant pay to plaintiff as and for exemplary damages the sum of \$50,000.

(E) that defendant pay to plaintiff all the costs and expenses of this action, including reasonable attorneys' fees to be assessed by the Court, plus interest as appropriate, and such other and further relief as to this Court seems just and proper.

Dated: New York, New York
June 27 , 2007

Russo & Burke

By: /s/ Joel L. Hecker
Joel L. Hecker (JH 0842)
Attorneys for Plaintiff
600 Third Avenue
New York, New York 10016
(212) 557-9600

C:\WPWIN\Goldsmith\Wolfgang.Complaint.wpd



MY ACCOUNT | CART | HELP

SEARCH

All Products

lynn goldsmith



POSTER ART

PHOTOGRAPHY

T-SHIRTS

VINTAGE TICKETS

BACKSTAGE

BILL'S CLOSET

Refine Search by:

CATEGORY

Poster Art (4)

Photography (7)

PRICE RANGE

\$50 - \$99 (1)

\$25 - \$49 (8)

Under \$25 (3)

Top 100 Searches

Performers

All Performers

The Allman Brothers

The Band

Cream

The Doors

Bob Dylan

The Eagles

Grateful Dead

Guns N' Roses

Jimi Hendrix

Led Zeppelin

Madonna

Bob Marley

Metallica

Nirvana

Pearl Jam

Tom Petty

Pink Floyd

The Rolling Stones

Santana

Bruce Springsteen

U2

Van Halen

The Who

Neil Young

Frank Zappa

Poster Art

Posters

Serigraphs

Proofs

Postcards

Handbills

DISPLAYING 1-11 OF 11 ITEMS

Lynn Goldsmith



Grand Funk Railroad
May 31, 1974
Poster



The Cars
1980
Promo Print
\$35



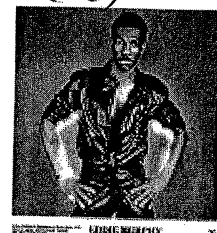
The Cars
1980
Promo Print
\$30



Tom Petty & the Heartbreakers
1981
Promo Print
\$30



Bob Dylan
1983
Poster
\$78



Eddie Murphy
1985
Promo Print
\$30



New Kids On The Block
1990
Poster
\$48



New Kids On The Block
1990
Handbill
\$13



Marky Mark
1992
Promo Print
\$25

(10)-(11)
revise

Programs

Photography

Jim Marshall
Baron Wolman
Michael Zagaris
Joe Sia
Gene Anthony
BG Archive
Promo Prints

T-Shirts

Men's Vintage
Men's Retro
Women's Vintage
Women's Retro
Youth Vintage

Vintage Tickets

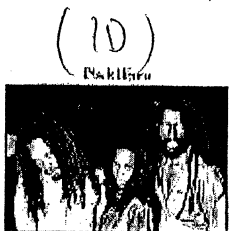
Pre-1960
1960s
1970s
1980s
1990s
Post-2000

Backstage

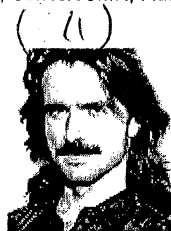
Passes
Laminates
Proofs
Mugs
Water Bottles

Bill's Closet

Neckties
Apparel
SWAG
Stickers
Pins
Pelons
Books



Black Uhuru
Promo Print
\$30



Yanni
Promo Print
\$25

CONTACT US

LICENSING

GIFT CERTIFICATES

ABOUT THE VAULT

DOWNLOADS

[SiteMap](#) | [Links](#) | [Terms of Use](#) | [Privacy Policy](#) | [Affiliates](#)

PLEASE TAKE NOTICE

☐ that the within is a (certified) true copy of a
entered in the office of
the clerk of the within named Court on

☐ that an Order of which the within is a true copy
will be presented for settlement to the
Honorable one of
the judges of the within named Court, at
on
, at

Dated: _____

RUSSO & BURKE

Attorneys for
ATTORNEYS AT LAW

600 THIRD AVENUE
NEW YORK, N.Y. 10016

Pursuant to 22 NYCRR 130-1.1, the undersigned, an
attorney admitted to practice in the courts of New York
State, certifies that, upon information and belief and
reasonable inquiry, the contentions contained in the
annexed document are not frivolous.

Dated: 6/27/07


Pratt's name
Joel L. Hecker, Esq.

RUSSO & BURKE

Attorneys for
ATTORNEYS AT LAW

600 THIRD AVENUE
NEW YORK, N.Y. 10016

To

Attorney(s) for

Index No.

Year

LYNN GOLDSMITH,

Plaintiff,

-against-

WOLFGANG'S VAULT,

Defendant.

COMPLAINT

RUSSO & BURKE

ATTORNEYS AT LAW

Attorneys for Plaintiff

600 THIRD AVENUE
NEW YORK, N.Y. 10016
(212) 557-9600

To

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated,

Attorney(s) for